

Remarks

In response to the Office Action mailed April 15, 2004, Applicants have filed a Request For Continued Examination for the above-identified application. Applicants respectfully request reconsideration of the present application in view of the present Amendment.

By this paper, Applicants have cancelled claims 22 and 23, amended claim 24 and added claims 77-79. No new matter has been added by the virtue of the present Amendment.

As a preliminary matter, Applicants note the indication of allowability of claims 9, 10 and 12 on page 6 of the Office Action. Applicants' new claim 77 is claim 9 substantially rewritten in independent form.

Claims 1, 4, 5, 7, 10-15, 17-29, 47 and 70-72 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-94 of U.S. Patent No. 6,224,548 in view of *David*.

Claims 1, 4, 5, 7, 10-15, 17-29, 47 and 70-72 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-100 of U.S. Patent No. 6,248,064 in view of *David*.

Claims 1, 4, 5, 7, 10-15, 17-29, 47 and 70-72 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-37 of U.S. Patent No. 6,540,673 in view of *David*.

Claims 1, 4, 5, 7, 10-15, 17-29, 47 and 70-72 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-64 of U.S. Patent No. 6,595,918 in view of *David*.

Applicants respectfully traverse the above double patenting rejections. The Patent Office states, with respect to each of the double patenting rejections, that *David* shows a similar glove member and that it would have been obvious to modify the previous invention to use 12 electrodes, as it is merely the substitution of one known diagnostic device for another. The Patent Office also states that *David's* sleeve and bicep portion is the wrist portion. Applicants respectfully disagree with these assertions.

David's device is quite different than the claimed invention. *David* discloses, and quite clearly illustrates, a measuring system comprising a combination sleeve and glove. Contrary to the Patent Office's assertion, a sleeve and a bicep do not make a wrist portion. Merriam-Webster's on-line dictionary defines a wrist as "the joint or the region of the joint between the human hand and the arm" (copy enclosed). The system in *David* has five EKG sensors located on the sleeve portion that extends on the forearm and bicep area of the arm. This is starkly different from Applicants' design.

Moreover, *David* discloses a very specific sensor placement, one that is very different from Applicants'. As set forth in *David* at column 6, lines 28-31, the location of the sensors on the glove and sleeve allow the patient to simply place his left arm on the chest to assure proper localization of the 12 lead EKG electrodes to accurate and reproducible ECG recording. *David* makes no mention that this placement can be modified. Accordingly, Applicants respectfully request a withdrawal of each of the double patenting rejections.

Claims 6, 8, 16, 17, 33, 37-47, 48-69 and 73-76 were rejected under 35 U.S.C. § 112, first paragraph. On page 6 of the Office Action, the Patent Office states that the issue of how the sensors works remains unanswered. While not believing additional information should be necessary, in the interest of expediting prosecution, Applicants present the following additional information on the operation of the electrodes.

The operation of the electrodes would be well known to those of ordinary skill in the art. Generally, the electrodes are intended to pick up the electrical signals from the

heart. They are positioned to generate a 12 lead (10 electrodes) EKG. The electrical impulses collected by the electrodes are transferred to the EKG machine and a 12 lead EKG waveform is constructed from the electrical impulses collected by the electrodes. The electrodes are made of highly conductive material, such as silver chloride material.

Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 112, first paragraph rejection.

Claims 1, 4, 5, 7, 14, 15, 17-29, 47 and 70-72 have been rejected under 35 U.S.C. § 102(e) as being anticipated by *David*. Applicants respectfully traverse this rejection.

Claim 1 recites:

A system for collecting diagnostic information and transmitting the diagnostic information to a remote location, the system comprising:

a member contoured to at least a portion of a person's hand, the member comprising at least an EKG diagnostic device, the diagnostic device comprising at least eight EKG sensors, the member comprising a palm portion, a wrist portion and a plurality of phalange portions with the EKG sensors being located on the member on at least two of the palm portion, the wrist portion, and at least one of the phalange portions; and

an interface unit in electrical communication with the member, wherein the interface unit is capable of transmitting information to a remote location.

In order for a reference to be anticipatory, it must place the invention in the possession of the public. *David* has not done this.

David only shows a glove and sleeve combination. *David's* sleeve extends from the wrist to the upper bicep area. *David's* glove and sleeve device 10 "fits snugly . . . on a human hand, forearm and arm." (Col. 3, lines 4-7, emphasis added.) Furthermore, *David* only describes the placement of the sensors and the operation of the glove with respect to the

illustrated glove and sleeve combination. *David* does not provide any enabling disclosure directed to a glove embodiment.

Each of the independent claims rejected (claims 1, 47 and 70) all recite that there are at least eight sensors on the member that comprises a palm portion, a wrist portion and a plurality of phalange portions and that the sensors are located on the member on at least two of the palm portion, the wrist portion, and at least one of the phalange portions. At best, *David* discloses only six sensors on such a member, with at least four of the sensors being located elsewhere on a sleeve member.¹ Contrary to the Patent Office's assertion, a sleeve covering a bicep and forearm is not a wrist portion. As discussed above, a wrist is the joint between the hand and the arm. It does not include the arm, and certainly not the entire forearm and bicep.

Accordingly, *David* does not anticipate the claims of the present invention. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(e) rejection.

The remaining rejected claims all depend either directly or indirectly from an allowable independent claim and are therefore patentable for at least the same reasons as their independent claim. Moreover, these claims add further features and limitations which render them separately allowable.

For instance, claim 12 recites that at least five of the EKG sensors are located on the index finger phalange portion of the member. This is not disclosed, taught or suggested anywhere in the prior art. As can be clearly seen in *David*, the majority of the sensors appear to be located on the forearm portion of the sleeve.

¹ Applicants respectfully point out that the Patent Office states that *David* discloses 11 electrodes. However, *David* only discloses 10 electrodes. If the electrode on the sling (the RA electrode) is to be counted, the RA electrode shown in Figure 3 at the tip of the index finger cannot be counted. (See column 3, lines 32-35.)

Claim 13 recites that at least one of the EKG sensors is located on the thumb portion of the member. This is not disclosed, taught or suggested by the prior art.

Claim 18 recites that the member has a shape that corresponds to at least a substantial portion of a person's hand such that the member is capable of being worn on a person's hand. This is not disclosed, taught or suggested by the prior art.

Claim 25 recites that the member comprises a plurality of diagnostic devices. Claim 26 that the plurality of diagnostic devices include the EKG diagnostic device, a blood pressure and pulse diagnostic device, and a temperature device. This is not disclosed, taught or suggested anywhere in the prior art. The blood pressure device of *David* is disposed on a neck sling 12 which is separate from his sleeve and glove combination.

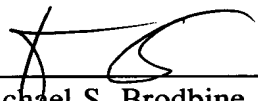
Claim 77 has been added. Claim 77 is essentially a rewriting of claim 1 and claim 9 with non-essential limitations from claim 1 being omitted. Claim 9 has been given an indication of allowability. Consequently, Applicants respectfully submit that claim 77 is allowable.

New claims 78 and 79 have been added to more particularly point out and distinctly claim the present invention, and in particular, the wrist portion of the member. Like the other limitations in the other pending claims, these limitations are not disclosed, taught or suggested in the prior art.

Applicants submit that the application is in a condition for allowance and respectfully requests a notice to that effect. If the Examiner believes that telephone conference will advance the prosecution of this application, such a conference is invited at the convenience of the Examiner.

A check in the amount of \$905.00 is enclosed to cover the \$395.00 Request For Continued Examination (RCE) fee and the 3 Month Extension of Time Petition fee of \$510.00. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,
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Thesaurus

5 entries found for **wrist**.

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Main Entry: **wrist**

Pronunciation: 'rist

Function: *noun*

Etymology: Middle English, from Old English; akin to Middle High German *rist* wrist, ankle, Old English *wr[AE]stan* to twist -- more at WREST

1 : the joint or the region of the joint between the human hand and the arm or a corresponding part on a lower animal

2 : the part of a garment or glove covering the wrist

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